

SANDLER, REIFF & YOUNG, P.C.

March 31, 2009

Thomasina Duncan, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 6159
Respondent Saadia Hunter

Dear Ms. Duncan:

This response is on behalf of Saadia Hunter, a middle school teacher, to a complaint filed by Jeanne Fox and Claire Waites.

Ms. Hunter, Ms. Fox, and Ms. Waites work at Daphne Middle School in Baldwin County, Alabama. Ms. Hunter supported Senator Barack Obama for President in the 2008 election.¹ Ms. Fox and Ms. Waites supported Senator John McCain.²

In their January 2009 complaint, Ms. Fox and Ms. Waites claim that two \$100 violations occurred on June 30, 2008. "I was furious about this," stated Ms. Waites in her affidavit.³ As the facts demonstrate, it is her co-complainant, Ms. Fox, who should actually receive her wrath.

On June 30, 2008, Jeanne Fox personally asked Ms. Hunter to turn in contributions for Ms. Fox and her friend Ms. Waites with each individual's personal funds to the National Education Association's political action committee, NEA Fund for Children and Public Education ("NEA Fund"). Union funds were not used to make any contributions. Ms. Hunter did not improperly solicit contributions for the NEA Fund. She did not coerce Ms. Waites into making a contribution. And she certainly did not make the contributions without permission.

Ms. Hunter did what Ms. Fox specifically asked her to do – she waited in a line and turned in Ms. Fox's and Ms. Waites's contributions for them. There is absolutely no reason to believe that Ms. Hunter violated the Federal Campaign Act of 1971, as amended, (the "Act") or Commission regulations.

For the reasons stated below, we respectfully request that the Commission find "no reason to believe" there was a violation and close this matter with respect to Saadia Hunter.

¹ Declaration of Saadia Hunter ¶ 24

² Declaration of Tiffany Howard ¶ 8, Declaration of Kim Williams ¶ 17, and Declaration of Saadia Hunter ¶ 24

³ Affidavit of Claire Waites, Jan. 7, 2009, ¶ 9

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A. Statement of Facts

In the summer of 2008, a nine-person delegation from the Baldwin County Education Association traveled to Washington, D.C. to attend the National Education Association's annual membership convention. The Baldwin County delegation included Ms. Fox, Ms. Waites, Ms. Kim Williams, Ms. Tiffeny Howard, and Ms. Hunter. Ms. Fox, Ms. Williams, Ms. Howard and Ms. Hunter arrived on June 30, 2008 and attended an Alabama delegation convention meeting at the hotel that evening.⁴

BCEA provides a predetermined amount that is given to each delegate to cover his or her travel costs. Each delegate is responsible for making his or her own travel arrangements and paying directly for their airfare, hotels, meals, and incidentals. In September 2007, BCEA approved their annual budget for fiscal year October 1, 2007 through September 30, 2008 that included a line item for eight Baldwin County delegates to attend the NEA convention.⁵

NEA Rep Assembly: Washington, D.C., July 1 - 6	
Travel (\$500 x 8)	\$4,000
Hotel (\$100 x 8 x 7)	\$5,600
Meals (\$80 x 8 x 7)	\$4,480
Incidentals (\$200 x 8)	<u>\$1,600</u>
	\$15,680

The per person allocation for the week long NEA convention was \$1,960. At some point after the annual budget was approved in September 2007, BCEA decided to send nine (9) delegates to the NEA convention in July 2008. BCEA had sufficient funds and simply allocated an additional \$1,960 for the ninth person.

In 2003, BCEA adopted procedures that are followed for each convention: delegates receive eighty-percent (80%) of the per person allocation before the convention and the remaining twenty-percent (20%) at the convention. Delegates are required to account for their expenses and are informed that IRS regulations require that any monies in excess of \$600 not accounted for must be reported as miscellaneous income by the delegate.⁶

One of Ms. Hunter's responsibilities for the 2008 convention was to bring the balance owed to each BCEA delegate to the convention. She had nine envelopes marked with each delegate's name containing \$392 in cash per person. On June 30, 2008, Ms. Hunter travelled to Washington, D.C. with the envelopes for each Baldwin County delegate (the "Delegate Money") in her purse and had them with her when she attended the Alabama delegation meeting that evening.⁷

⁴ Howard Declaration ¶ 2, Williams Declaration ¶ 2, and Hunter Declaration ¶ 2

⁵ See Baldwin County Education Association, Local Budget October 1, 2007 to September 30, 2008 attached as Exhibit 1.

⁶ Howard Declaration ¶ 3, Williams Declaration ¶ 3, and Hunter Declaration ¶ 3

⁷ Howard Declaration ¶ 4, Williams Declaration ¶ 4, and Hunter Declaration ¶ 5

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1. June 30, 2008 Alabama delegation meeting where Jeanne Fox tells Saadia Hunter to make contributions to NEA Fund

On the evening of June 30, 2008, the Alabama delegation to the NEA convention held a meeting attended by approximately 200 delegates. The Alabama Education Association ("AEA") president chaired the one hour meeting. Near the end of that meeting, the delegate responsible for soliciting and collecting contributions to the NEA Fund (the "State Captain") solicited the attendees and announced that she would be at a table in the back of the room to collect contributions from those who chose to make them that evening.⁸

Ms. Hunter, Ms. Williams, and Ms. Howard sat together among other Baldwin County delegates during the Alabama meeting. When the meeting was finished, the three delegates decided to make their contributions to the NEA Fund. Ms. Howard asked Ms. Hunter to turn in her contribution to the State Captain. Ms. Hunter agreed. Ms. Howard then gave Ms. Hunter \$100 and Ms. Hunter went to the back of the room to wait in the line to turn in her contribution and Ms. Howard's contribution. Ms. Williams went with Ms. Hunter to wait in line and Ms. Howard stayed near their seats and mingled with other delegates.⁹

On her way to the line, Ms. Hunter, Ms. Williams and Ms. Fox crossed paths and spoke briefly. Ms. Hunter and Ms. Williams recall Ms. Fox asking Ms. Hunter if the line was for the NEA Fund. Ms. Hunter told her that it was. Ms. Fox then said that she left her purse in her room. Ms. Hunter remembered that she had the Delegate Money envelopes, including the one containing Ms. Fox's \$392 in her purse so she asked Ms. Fox if she wanted to just use that money to make the contribution. Ms. Fox agreed that was a good idea and authorized Ms. Hunter to make a \$180 contribution using a portion of Ms. Fox's \$392 from her Delegate Money.¹⁰

Ms. Fox left and Ms. Hunter and Ms. Williams got in line. At this point, Ms. Hunter was holding Ms. Howard's \$100, she was authorized to use \$180 of Ms. Fox's personal funds to make her contribution, and she planned on writing a personal check in the amount of \$180 for her own contribution.¹¹

While waiting in line, Ms. Fox returned and told Ms. Hunter to "pay Claire's, too."¹² Ms. Hunter and Ms. Williams had the impression that Ms. Fox had just spoken to Ms. Waites on the phone.¹³ They know that Ms. Fox and Ms. Waites are close friends and that they were sharing a room at the convention.¹⁴ Both Ms. Hunter and Ms. Williams reasonably believed that Ms. Fox was simply passing on a message that she received moments earlier from Ms. Waites in which she authorized Ms. Fox to tell Ms. Hunter to make Ms. Waites's contribution

⁸ Howard Declaration ¶ 4, Williams Declaration ¶ 4, and Hunter Declaration ¶ 5

⁹ Howard Declaration ¶ 5, Williams Declaration ¶ 5, and Hunter Declaration ¶ 6

¹⁰ Williams Declaration ¶ 6 and Hunter Declaration ¶ 7

¹¹ Hunter Declaration ¶ 6, 7, and 8 and Howard Declaration ¶ 5

¹² Williams Declaration ¶ 8 and Hunter Declaration ¶ 9

¹³ Williams Declaration ¶ 8 and Hunter Declaration ¶ 9

¹⁴ Williams Declaration ¶ 8 and Hunter Declaration ¶ 9

from her personal funds, too.¹⁵ Neither Ms. Hunter nor Ms. Williams suspected anything was unusual about Ms. Fox's instructions. Ms. Hunter agreed to Ms. Fox's simple request.

When Ms. Hunter finally made it to the front of the line she wrote a \$180 check to the NEA Fund for her contribution. The State Captain placed the \$180 check in an envelope and affixed a pre-printed sticker on the envelope indicating that it was a contribution from Seadia Hunter.¹⁶

Ms. Hunter then gave Ms. Howard's \$100 cash contribution to the State Captain who placed the contribution in a separate envelope and affixed a pre-printed sticker with Tiffeny Howard's name it.¹⁷

Ms. Hunter then took \$180 out of Ms. Fox's Delegate Money envelope and attempted to make the contribution that Ms. Fox authorized her to make. The State Captain advised Ms. Hunter that the cash contribution limit was \$100. Ms. Hunter gave the State Captain Ms. Fox's \$100 and made a notation on the outside of Ms. Fox's Delegate Money envelope that \$100 was used for the NEA Fund contribution. The State Captain accepted Ms. Fox's contribution, placed it in a separate envelope, and affixed a pre-printed sticker on the envelope with Jeanne Fox's name on it.¹⁸

Ms. Hunter then took \$100 out of Ms. Waites' envelope to make the contribution that Ms. Fox authorized Ms. Hunter to make on behalf of Ms. Waites. Ms. Hunter gave the State Captain Ms. Waites's \$100, made a notation on the outside of Ms. Waites's Delegate Money envelope that \$100 was used for the NEA Fund contribution. The State Captain accepted Ms. Waites's contribution from Ms. Hunter, placed it in a separate envelope, and affixed a pre-printed sticker on the envelope with Claire Waites's name on it.¹⁹

Ms. Hunter did not make contributions on behalf of any of the other Baldwin County delegates for whom she was holding their Delegate Money.²⁰

When it was her turn, Ms. Williams made a \$200 contribution by writing a personal check and giving it to the State Captain who processed the donation.²¹

After turning in the contributions for herself and her fellow Baldwin County delegates pursuant to their requests, Ms. Hunter spoke briefly with Ms. Fox and confirmed that she turned in the contributions that Ms. Fox authorized but that the State Captain would only accept \$100 in

¹⁵ Williams Declaration ¶ 8 and Hunter Declaration ¶ 9

¹⁶ Hunter Declaration ¶ 10

¹⁷ Hunter Declaration ¶ 11

¹⁸ Hunter Declaration ¶ 12

¹⁹ Hunter Declaration ¶ 13

²⁰ Hunter Declaration ¶ 14

²¹ Williams Declaration ¶ 9

cash contributions each from Ms. Fox and Ms. Waites.²² Ms. Fox did not indicate that there was any problem at all.²³ Ms. Hunter and Ms. Williams then re-joined Ms. Howard.

2. Claire Waites is upset that Saadia Hunter did what Jeanne Fox instructed her to do.

The next morning, July 1, 2008, Ms. Hunter, Ms. Howard, Ms. Fox, and Ms. Williams attended the daily Alabama delegation meeting before they headed to the convention site to look at exhibits.²⁴ Once again, Ms. Fox did not raise any issues with Ms. Hunter about the contributions that she authorized Ms. Hunter to make for herself and Ms. Waites the evening before.²⁵

Around lunch time, on July 1, 2008, Ms. Waites called Ms. Hunter on her cell phone. Ms. Hunter was waiting in another line – this time for lunch – and did not answer her phone in time to speak with Ms. Waites. Ms. Waites left a voice mail message that Ms. Hunter recalls as follows: "This is Claire. Do not spend my money. You have no right spending my money. I don't want my money going to Obama."²⁶

Ms. Hunter immediately returned the call and spoke to Ms. Waites. During this call, Ms. Waites reiterated the points she made in her voice mail message. Ms. Hunter informed Ms. Waites that she would look into it. Ms. Hunter then called a past-president of BCEA for advice. After speaking with her friend, Ms. Hunter called Ms. Waites back and informed Ms. Waites that she would get her \$100 contribution back for her.²⁷

3. Jeanne Fox apologizes to Saadia Hunter for causing the problem.

On the morning of July 2, 2008 at the Alabama delegation meeting, Ms. Fox apologized to Ms. Hunter. She told her, "I'm so sorry." Ms. Hunter replied, "You told me to do it." Ms. Fox confirmed, "I know. Just take Claire's name off the contribution and put my name on it." Ms. Waites then approached Ms. Hunter and started arguing. Ms. Hunter apologized for the mix-up and told her that she would take care of it for her.²⁸

Ms. Hunter contacted the State Captain and asked her to get Ms. Waites's contribution back. The State Captain informed Ms. Hunter that she already turned in Ms. Waites's contribution and could not get it back.²⁹

²² Williams Declaration ¶ 10 and Hunter Declaration ¶ 15

²³ Williams Declaration ¶ 10 and Hunter Declaration ¶ 15

²⁴ Williams Declaration ¶ 6, Howard Declaration ¶ 11, and Hunter Declaration ¶ 16

²⁵ Hunter Declaration ¶ 16

²⁶ Hunter Declaration ¶ 17

²⁷ Hunter Declaration ¶ 18

²⁸ Hunter Declaration ¶ 19

²⁹ Hunter Declaration ¶ 20

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4. Jeanne Fox did not ask for her money back.

Ms. Fox did not ask Ms. Hunter for her money back during the NEA convention even under pressure from Ms. Waites to make the request. Ms. Williams recalls Ms. Fox saying "keep it" and "I don't want the money back."³⁰

5. Jeanne Fox and Saadia Hunter agree to split the cost of Jeanne Fox's error and Claire Waites receives the full amount of her convention allocation.

At a daily Alabama delegation morning meeting, Ms. Hunter distributed the Delegate Money envelopes to each Baldwin County delegate. As she handed each delegate their envelope, she asked them to open it, count the money, and confirm that the amount was correct.³¹

Ms. Williams, Ms. Howard, and the other BCEA delegates received their Delegate Money and confirmed that the amount was correct.³²

After Ms. Hunter informed Ms. Fox that the State Captain told her that Ms. Waites could not get her money back, Ms. Fox and Ms. Hunter discussed the matter further and agreed to split the cost of the \$100 error that Ms. Fox caused when she authorized Ms. Hunter to make a contribution from Ms. Waites's envelope. Ms. Fox told Ms. Hunter to take \$80 from her envelope and put it in Ms. Waites's envelope. Ms. Hunter took \$20 from her own envelope and added it to Ms. Waites's envelope bringing the total to \$100 – equal to the amount that Ms. Hunter used to make Ms. Waites's contribution pursuant to Ms. Fox's original instruction.³³

Ms. Hunter then gave Ms. Waites her envelope and asked her to count the money and confirm that it was correct. Ms. Waites appeared confused but did not ask any questions or complain about receiving the full amount of her money.³⁴

B. Response to Specific Allegations

1. Labor organization funds were not used to make contributions.

Jeanne Fox instructed Saadia Hunter to make contributions to the NEA Fund with Ms. Fox's personal funds and with Ms. Waites's personal funds in compliance with the Act. The prohibition at 2 U.S.C. §441b(a) against using labor organization funds to make contributions in connection with a federal election was not violated when Saadia Hunter agreed to Ms. Fox's request. Specifically, "dues, fees, or other monies required as a condition of membership in a labor organization"³⁵ were not used to make the contribution that Ms. Fox requested. The facts

³⁰ Williams Declaration ¶ 13

³¹ Hunter Declaration ¶ 7, Williams Declaration ¶ 14, and Howard Declaration ¶ 22

³² Hunter Declaration ¶ 7, Williams Declaration ¶ 14, and Howard Declaration ¶ 22

³³ Hunter Declaration ¶ 21

³⁴ Hunter Declaration ¶ 23 and Williams Declaration ¶ 16

³⁵ 2 U.S.C. §441b(b)(3)(A)

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in this matter demonstrate that the \$100 used to make Ms. Fox's contribution and the \$100 used to make Ms. Waites's contribution were made from each individual's personal funds.

In September 2007, BCEA approved a budget that included funds for delegates to attend the NEA convention in Washington, D.C. in July 2008. The per person allocation was intended to cover travel, hotel, meals, and incidental costs. Eighty-percent of the per person amount was distributed to delegates prior to the convention and the remaining twenty-percent was distributed at the NEA convention in envelopes with each delegates name written on the outside. Ms. Hunter travelled to Washington with the delegate envelopes and handed them to each delegate at the NEA convention consistent with BCEA's procedures.

Baldwin County delegates were instructed to account for their expenses at the NEA convention and that if more than \$600 was not accounted for they were required to report it as miscellaneous income on their personal taxes. The money in each delegates envelope was their personal funds – to be used for expenses or, if not accounted for, then to be treated as personal income for which they were required to pay federal taxes.

On June 30, 2008, Ms. Fox directed Ms. Hunter to use \$100 from Ms. Fox's personal funds and \$100 from Claire Waites's personal funds to make permissible contributions to the NEA Fund.

Ms. Waites and Ms. Fox, through their words and their actions, confirmed that the funds authorized by Ms. Fox to be used for their contributions to the NEA Fund were the personal funds of Ms. Waites and Ms. Fox. Ms. Waites confirmed that these were her personal funds when she left her voice mail message for Ms. Hunter on July 1, 2008 during which she complained: "Do not spend my money. You have no right spending my money. I don't want my money going to Obama." Ms. Fox confirmed that the money in her envelope was her personal funds when: (1) she authorized Ms. Hunter to use a portion of the money in Ms. Fox's envelope to make the contribution and (2) she attempted to correct her error by donating \$80 from her envelope for Ms. Hunter to place in Ms. Waites's envelope.

The money used to make the two \$100 contributions to the NEA Fund consisted of permissible individual funds. There was no violation of 2 U.S.C. §441b.

2. Saadia Hunter did not solicit contributions to the NEA Fund

The State Captain for the Alabama delegation solicited and collected contributions from Alabama delegates to the NEA Fund. Saadia Hunter merely waited in a line to make her contribution and to turn in contributions given to her by Tiffeny Howard and authorized by Ms. Fox on behalf of herself and her friend Claire Waites. Ms. Hunter did not solicit funds for the NEA Fund, therefore, she did not violate 2 U.S.C. §441b(b)(3)(B).

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- 3. Saadia Hunter was not responsible for informing Waites and Fox of their right to refuse.**

The NEA and the State Captain were responsible for informing members of their right to refuse to make contributions to the NEA Fund. Saadia Hunter was not an authorized agent of the NEA Fund and she did not solicit contributions on behalf of the political committee. Accordingly, she was not responsible for informing Claire Waites or Jeanne Fox of their right to refuse to make a contribution. As the facts illustrate, Ms. Fox voluntarily authorized Ms. Hunter to make contributions from her personal funds and from her friend Ms. Waites's personal funds to the NEA Fund. Ms. Hunter did not violate the requirements set forth in 2 U.S.C. §441b(b)(3)(B).

- 4. Jeanne Fox authorized Saadia Hunter to make contributions to the NEA Fund from her personal funds and from Claire Waites's personal funds.**

The Act prohibits a person from making "a contribution in the name of another person." 2 U.S.C. §441f. On June 30, 2008, Jeanne Fox specifically and unambiguously authorized Saadia Hunter to make two contributions of \$180 each to the NEA Fund – one from Ms. Fox's personal funds and the other from the personal funds of her friend Claire Waites. Ms. Williams witnessed Ms. Fox authorizing Ms. Hunter to make both of these contributions while she stood with Ms. Hunter in line to make her contribution to the NEA Fund. When Ms. Fox returned shortly thereafter she instructed Ms. Hunter to "pay Claire's, too." Both Ms. Williams and Ms. Hunter reasonably believed that she was simply relaying a message from Ms. Waites, with whom they believed she had just spoken to on the phone. When it was her turn in line, Ms. Hunter followed Ms. Fox's instructions and made one contribution from Ms. Fox's personal funds in Ms. Fox's name and one contribution from Ms. Waites's personal funds in Ms. Waites's name. Ms. Hunter did not make a contribution in the name of another person.

Notably, Ms. Hunter did not make contributions from the personal funds of any of the other Baldwin County delegates for whom she was also holding their delegate envelopes that evening. This fact demonstrates that Ms. Hunter only turned in contributions for individuals who specifically authorized her to do so.

Ms. Hunter simply believed she was doing Ms. Fox a favor when she waited in line to turn in the contributions that Ms. Fox told her to make. Unfortunately for her, Ms. Fox and Ms. Waites decided – seven months after the fact – to apparently vent their anger over the election of President Obama by filing this complaint.

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Conclusion

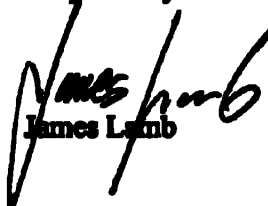
The facts at issue occurred in June 2008, more than six months before Ms. Fox and Ms. Waites filed their complaint with the Commission. It was not until November 2008, after President Obama's victory, that Ms. Fox signed her affidavit. Ms. Waites waited until January 2009. Just days before President Obama's Inauguration, they finally filed their complaint. Given the small amount of money involved and the extraordinary amount of time that passed, one cannot help but wonder what makes Ms. Waites "furious."

The facts demonstrate that Jeanne Fox personally asked Ms. Hunter to turn in contributions to the NEA Fund for Ms. Fox and her friend Ms. Waites with each individual's personal funds. Ms. Hunter reasonably did what Ms. Fox authorized her to do – she waited in a line and turned in their contributions as a favor.

Union funds were not used to make contributions to the NEA Fund. Ms. Hunter did not improperly solicit contributions for the NEA Fund. She did not coerce Ms. Fox or Ms. Waites into making a contribution. And she certainly did not make any contributions in the name of another person.

We respectfully request that the Commission find "no reason to believe" there was a violation and close this matter with respect to Saadia Hunter.

Respectfully submitted,


James Lamb

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